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9 *Attorney for Defendant* MICKEY GINES

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 UNITED STATES OF AMERICA )

Case No.: 2:13-cr-355-GMN-CWH

13 Plaintiff, )

**STIPULATION TO MODIFY  
CONDITIONS OF PRETRIAL  
RELEASE AND SUPERVISION**

14 vs. )

15 MICKEY GINES, )

16 Defendant. )

17 IT IS HEREBY STIPULATED AND AGREED, by and between Daniel G. Bogden,  
18 United States Attorney, by and through Daniel J. Cowhig, Assistant United States Attorney, and  
19 Defendant MICKEY GINES, by and through his counsel, Mace J. Yampolsky, Esq., that:

- 20 1. Defendant MICKEY GINES' conditions of pre-trial release and supervision shall be  
21 modified so that he may use a Smart Phone with internet capability for the limited  
22 purpose of verifying his work for his new employer, TNG, Inc.
- 23 2. The primary reason for this modification is that Mr. Gines' duties as a retail  
24 merchandiser for TNG, Inc. require that he take photographs with a Smart Phone with  
25 internet capability of the magazine and book racks he services within various grocery

1 and convenience store locations within Clark County, Nevada to ensure work is done.

2 (See documents from Defendant's employer attached hereto as Exhibit "A").

3 3. Defendant MICKEY GINES will continue to be subject to any and all prohibition(s)  
4 pertaining to his use of the above-identified Smart Phone, as well as the other related  
5 limitations on his use of the Internet and electronic mail and in all other respects.

6 4. United States Pretrial Services Officer Samira Barlow and Assistant United States  
7 Attorney for the District Of Nevada, Daniel J. Cowhig, Esq., are aware of and have no  
8 opposition to this employment-related modification.

9 DATED this 13<sup>th</sup> day of June, 2016.

10 OFFICE OF THE U.S. ATTORNEY

MACE J. YAMPOLSKY, LTD.

11 \_\_\_\_\_/s/\_\_\_\_\_

\_\_\_\_\_/s/\_\_\_\_\_

12 Daniel J. Cowhig, Esq.  
13 Assistant United States Attorney  
333 Las Vegas Blvd., S., No. 5000  
Las Vegas, Nevada 89101

Mace J. Yampolsky, Esq.  
625 South Sixth Street  
Las Vegas, Nevada 89101  
**Counsel for Defendant:**

14 **Counsel for Plaintiff:**  
United States of America

Mickey Gines

15  
16 **ORDER**

17 IT IS THEREFORE ORDERED that:

- 18 1. Defendant MICKEY GINES' conditions of pre-trial release and supervision shall  
19 be modified so that he obtain and use an internet-ready Smart Phone in the context  
20 of his employment as a retail merchandiser.
- 21 2. Defendant MICKEY GINES will continue to be subject to the prohibitions  
22 pertaining to his use of internet and email in all other respects as he has thus far.

23 DATED this 14th day of June, 2016.

24   
25 \_\_\_\_\_  
United States Magistrate Judge

*Exhibit “A”*

*Exhibit “A”*



M Gines

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## Please install Pocket Tracker on your phone

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**Bearl Mitchell** <BMitchell@tng.com>

Sat, Jun 11, 2016 at 12:09 AM

To: Mickey

If you have an iPhone my suggestion is in the future if Apple sends out a system update that you do NOT update your phones system until I tell you that Pocket Tracker is compatible with the new system

Please reply to this email or shoot me a text when completed

I will load your stores in there tomorrow and I will be sending the rest of the emails then.

You will need this app on your phone in order to clock in and out and answer any and all surveys.

Please follow the below instructions on how to install Pocket Tracker (PT) onto your phone

From the web browser on your phone please type in the following

[crcsecure.com/tng](http://crcsecure.com/tng)

It will ask you if you have an iPhone or an Android. Please follow the prompts

It will also ask you for the following info

Company ID 370

Employee ID 43819 (memorize this)

Password 43819

Just follow the prompts and it will install it

When it is completed go into Pocket Tracker (PT) and hit configure make sure the above info is in there and correct. Back out of that and locate the two arrows in the top right corner (for Android) or the refresh date button for iPhone and hit it. It will then pull in your stores. You MUST refresh data every morning before work and every day after you are done. Failure to do so will result in you not getting paid.

Any questions please let me know,

**Bearl Mitchell**  
District Supervisor  
702-279-3625 (c)  
bmitchell@tng.com

TNG Merchandising

[www.tng.com](http://www.tng.com)

This message (including any attachments) is intended only for the use of the individual or entity to which it is addressed and may contain information that is non-public, proprietary, privileged, confidential, and exempt from disclosure under applicable law or may constitute attorney work product. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, notify us immediately by telephone and (i) destroy this message if a facsimile or (ii) delete this message immediately if this is an electronic communication.

**ME15349 - PT Merchandiser**

June 09, 2016

Mickey Gines  
3635 Lake Victoria Drive  
North Las Vegas, Nevada 89032

Dear Mickey,

We are pleased to offer you the position of Retail Merchandiser- Part Time with **TNG**. We are looking forward to you becoming a valuable addition to our team in the Merchandisers/SMS Division. To ensure our mutual understanding, the terms and conditions of your at-will employment are outlined below:

Position Title:	Retail Merchandiser- Part Time
Position Type:	Part Time
Start Date:	June 09, 2016
Hourly Rate:	\$12.00

This offer is contingent upon:

- The successful completion of a background check
- Providing upon your first day of employment satisfactory proof of identity and legal authorization to work in the United States and your completion of an Employment Eligibility Verification form I-9.

Attached you will find, applicable state/federal tax Forms, a direct deposit form, and Merchandiser Expectation Policy. Please return these completed forms along with a copy of the documents provided to the hiring manager to complete the I9 form to Kakisha Jones by scanning or email to kakisha.jones@tng.com or fax to 866-265-9157 (f). Failure to return a completed direct deposit form will automatically put your earned wages on a reloadable ADP Total Pay Card.

We are looking forward to your acceptance of our offer of at-will employment. The offer must be accepted and corresponding paperwork completed within 48 hours of receipt or the offer will expire. If you have any questions, please do not hesitate to let me know.

Sincerely,

Bearl Mitchell  
Hiring Manager  
**TNG**

I understand and accept the above terms and conditions of this employment letter that are all-inclusive and supersede all other verbal or written discussions of employment. I agree that no other promises or representations have been made to me.

Signature:

---

Mickey Gines

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Date



## Merchandiser Expectations and Confidentiality Agreement

### What is expected of Our Merchandisers?

1. Work their assigned stores on the day(s) they are scheduled, clocking in accurately to assignments and drive time.
2. Perform merchandising functions that follow the instructions of the newsletters, POG's, pull lists, etc
3. Merchandise stores to the expected units per hour (UPH)
4. Develop a positive working relationship with store employees
5. Accurately answer surveys, as required, on the same day as service
6. Communicate any issues to their District Supervisor

TNG has expectations in place based on sales and expenses. Based on these expectations, we have developed an expected units per hour (UPH) measurement for each store that we service throughout the country. Your District Supervisor will provide you with a current store listing with the # of visits required as well as the expected UPH for each assignment. Store Assignments are subject to change and are at the discretion of the District Supervisor.

If a service visit is going to exceed the usual time, you are required to notify your District Supervisor immediately and continue servicing the store until the job is complete. As a Merchandiser you should not discuss your average service time with store personnel/management. If store personnel ask you about this you should politely inform them that it would need to be discussed with your supervisor.

Company and customer information is proprietary and should not be shared with anyone outside of TNG including former employees, vendors, publishers, competitors or other retailers. Sharing company information can have an adverse impact on our integrity and relationship with a client. With store personnel you should only share what's necessary to do your job.

At no time should a Merchandiser contact a client, a vendor or the account manager for any reason. Your District Supervisor is your first and best resource.

Always refer any inquiries to your District Supervisor. Disclosure of confidential or sensitive information to others is strictly prohibited. This includes disclosure through social media, internet postings or other electronic media. Following is a partial list of what violates this agreement. Disclosure to third parties of:

- Customer and sales lists or records, trade secrets, credit information;
- Confidential information of a technical, financial or business nature;
- Personnel information
- Sales, earnings, or other financial data or events not released publicly ("Inside Information").

Individuals found to be violating this policy are subject to disciplinary action, up to and including dismissal, and may also be subject to civil and/or criminal penalties.

Please understand that due to business needs and so that you will be able to perform your job functions it may be necessary to share some of your personal information with Business Partners that we use to manage our merchandising business. This information may include but is not limited to the following: name, address, phone number, and email address. TNG will not share Social Security #'s and Partners who receive any personal information will use it only for legitimate TNG Business needs.

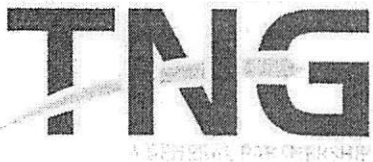
I have read this Agreement and have had the opportunity to ask questions of any items I did not understand.

Merchandiser Printed Name: MICKEL HINES

Merchandiser Signature [Signature] Date 6/8/16

CC: Merchandiser copy; District Supervisor copy; Personnel file copy



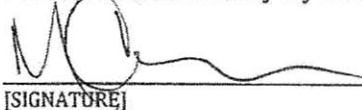


### EMPLOYEE COMPENSATION – SPECIAL CATEGORIES

1. **DRIVE TIME:** – Merchandiser travel (driving, walking, public transportation, or any other mode of travel) between stores is considered work time. Travel from or to your home is considered commute time and is not considered work time.  
**How Calculated:** Hourly rate x amount of time to drive from store to store  
**How to Log:** You are responsible for logging drive time through IVR or PocketTracker. Logging drive time is a requirement. If you do not log drive time, it will be assumed that time spent between stores was not time worked, and that you spent that time on personal matters.  
**How Paid:** Drive time appears on the paystub as "Drive Time"
2. **SURVEY PAY** – Survey pay consists of pay for time spent on surveys that are completed on the internet and not through the PocketTracker application.  
**How Calculated:** Most surveys pay two minutes. However, some longer surveys may pay more.  
**How Paid:** Survey pay appears on the paystub as "Web Survey"
3. **ASSESSMENTS** – Required evaluations of knowledge of a subject or completion of a project.  
**How Calculated:** Reimbursed at a flat amount according to the particular survey being completed.  
 Example: WebTracker assessment (\$5.00) & New Hire TEAM assessment (\$20.00)  
**How Paid:** Assessments appear on the paystub as "Special Pay"
4. **OVERTIME** – In most states, overtime is paid after 40 hours worked in one week or 8 hours in one day.  
**How Calculated:** 1.5 x hourly rate. The IVR/ESP system calculates this automatically.  
**How Paid:** Overtime appears on the paystub as "Overtime".
5. **ADMIN & PRINTING PAY** - Administrative work consists of time spent for items such as reviewing job specific emails while not logged in to IVR, answering phone calls and printing required paperwork.  
**How Calculated:** Typically, most chains pay one minute per week; however there are some accounts that pay higher amounts and some that pay per store visit.  
**How Paid:** Admin/Printing pay appears on the paystub as "Admin/Printing".

\*\*\*\*\*

I MICKEY AINES [PRINTED NAME], acknowledge that I have read the explanations above regarding each special category of compensation that I may be entitled. Additionally, I understand my responsibility to record any compensation I am entitled, according to applicable company policy, federal/state laws and procedure. If at any time I believe I am not being compensated correctly, or if I have any questions, I have been instructed to notify my Direct Supervisor or Human Resources immediately.

  
 [SIGNATURE]

6/8/16  
 [DATE]

www.tng.com

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